

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

AL-HARETH AL-ALBUSTANI,

Plaintiff,

v.

SEAN B. ALGER, et al.,

Defendants.

CASE NO. C22-5238JLR

ORDER

I. INTRODUCTION

Before the court is Plaintiff Al-Hareth Al-Bustani's¹ motion for leave to file an amended complaint. (Mot. (Dkt. # 38); *see also* Mot. at 6-28, Ex. 1 ("Prop. Am. Compl."); Reply (Dkt # 40).) Defendant Sloan Bella, proceeding *pro se*, filed a response

¹ In prior filings, Plaintiff was identified as Al-Hareth Al-Albustani. Plaintiff's amended complaint seeks to correct the spelling of his name to "Al-Hareth Al-Bustani." (*See* Prop. Am. Comp.) Accordingly, the court will refer to Plaintiff using the corrected spelling of his name.

1 to the motion, seeking dismissal. (Resp. (Dkt. # 39).)² The court has considered the
2 parties' submissions, the relevant portions of the record, and the governing law. Being
3 fully advised, the court GRANTS Mr. Al-Bustani's motion to amend his complaint.

4 II. BACKGROUND

5 In this case, Mr. Al-Bustani alleges that Defendants have used the likeness of his
6 deceased wife, Tracy Twyman, without authorization and made allegedly false and
7 defamatory statements about the circumstances surrounding her death. (*See* Compl. (Dkt.
8 # 1); *see also* 8/9/22 Order (Dkt. # 35) (detailing Mr. Al-Bustani's allegations).)

9 On July 11, 2022, Ms. Bella moved to dismiss Mr. Al-Bustani's claims against
10 her. (MTD (Dkt. # 12).) The court granted the motion in part, dismissing Mr.
11 Al-Bustani's claim against Ms. Bella under the Washington Personality Rights Act
12 ("WPRA") without prejudice for failure to adequately allege facts in support of the claim.
13 (*See* 8/9/22 Order at 9-12, 18.) The court granted Mr. Al-Bustani leave to submit an
14 amended complaint by August 30, 2022 if he wished to cure deficiencies in his WPRA
15 claim. (*Id.* at 18.)

16 Mr. Al-Bustani now moves to amend his complaint in order to: (1) add factual
17 allegations in support of his WPRA claim against Ms. Bella, consistent with the court's
18 August 9, 2022 order; (2) add factual allegations in support of his WPRA claims against
19 Defendants other than Ms. Bella; (3) correct legal names for various Defendants; (4)

20
21 ² Although Ms. Bella describes her filing as a motion to dismiss (*see* Resp. at 1), the court
22 construes her filing as a response to Mr. Al-Bustani's motion to amend. Ms. Bella may move to
dismiss Mr. Al-Bustani's amended complaint after that complaint has been filed.

1 correct Plaintiff's own legal name; (5) add as a Defendant Sun Audio Networks, LLC
 2 d/b/a G Networks; (6) add as a Defendant James Maiden; and (7) remove allegations
 3 relating to dismissed parties. (*See* Mot. at 2-3; *see generally* Prop. Am. Compl.)

4 III. ANALYSIS

5 The court sets forth the relevant legal standard before discussing Mr. Al-Bustani's
 6 motion for leave to file an amended complaint.

7 A. Legal Standard

8 Pursuant to Federal Rule of Civil Procedure 15(a)(2), courts should "freely give
 9 leave" to amend a pleading "when justice so requires." Fed. R. Civ. P. 15(a)(2). "[T]his
 10 policy is to be applied with extreme liberality." *Morongo Band of Mission Indians v.*
 11 *Rose*, 893 F.2d 1074, 1079 (9th Cir. 1990) (citing *DCD Programs, Ltd. v. Leighton*, 833
 12 F.2d 183, 186 (9th Cir. 1987)).

13 Courts use five factors to assess the propriety of a motion for leave to amend:
 14 (1) bad faith, (2) undue delay, (3) prejudice to the opposing party, (4) futility of
 15 amendment, and (5) whether the party has previously amended its pleading. *Allen v. City*
 16 *of Beverly Hills*, 911 F.2d 367, 373 (9th Cir. 1990) (citing *Ascon Props., Inc. v. Mobil Oil*
 17 *Co.*, 866 F.2d 1149, 1160 (9th Cir. 1989)); *see also Foman v. Davis*, 371 U.S. 178, 182
 18 (1962) (holding that leave to amend should be "freely given."). Not all of these factors
 19 are weighted equally. "[I]t is the consideration of prejudice to the opposing party that
 20 carries the greatest weight." *Eminence Capital, LLC v. Aspeon, Inc.*, 316 F.3d 1048,
 21 1052 (9th Cir. 2003) (citing *DCD Programs*, 833 F.2d at 185). "The party opposing
 22

1 amendment bears the burden of showing prejudice.” *DCD Programs*, 833 F.2d at 187
2 (citing *Beeck v. Aqua-slide ‘N’ Dive Corp.*, 562 F.2d 537, 540 (8th Cir. 1977)).

3 **B. Leave to File an Amended Complaint**

4 Mr. Al-Bustani seeks to amend his complaint to add factual allegations supporting
5 his claims, name newly identified defendants, and correct misspelled names or otherwise
6 inaccurate names. Although Ms. Bella opposes Mr. Al-Bustani’s motion, she does not
7 argue that his amendments are in bad faith, futile, or would cause either undue delay or
8 prejudice to her. (*See generally* Resp.); *Allen*, 911 F.3d at 373; *DCD Programs*, 833 F.2d
9 at 187. Instead, Ms. Bella opposes Mr. Al-Bustani’s motion by disputing factual
10 allegations in the original complaint and invoking the State of Washington’s “Anti-Slapp
11 Law” [sic] as a defense to liability for her speech on the Ground Zero Show. (*See* Resp.
12 at 1-2.) To the extent Ms. Bella asks the court to deny Mr. Al-Bustani’s motion with
13 respect to his proposed changes to the factual allegations supporting his WPRA claim
14 against her, Ms. Bella’s motion is moot, as the court already granted Mr. Al-Bustani
15 leave to amend his complaint to add such allegations. (*See* 8/9/22 Order at 18 (granting
16 Mr. Al-Bustani leave to amend his WPRA claim).). Ms. Bella does not address the
17 remaining amendments Mr. Al-Bustani proposes (*See generally* Resp.)

18 Accordingly, the court finds that Ms. Bella has not made the requisite showing to
19 oppose Mr. Al-Bustani’s motion and GRANTS Mr. Al-Bustani’s motion for leave to file
20 an amended complaint. *See DCD Programs*, 833 F.2d at 187 (noting the opposing party
21 bears the burden of showing prejudice).
22

IV. CONCLUSION

The court GRANTS Mr. Al-Bustani's motion to amend his complaint (Dkt. # 38).
The court DIRECTS the clerk to correct the caption to reflect the proper spelling of Mr.
Al-Bustani's name.

Dated this 20th day of September, 2022.

A handwritten signature in black ink, appearing to read "James L. Robart", written over a horizontal line.

JAMES L. ROBART
United States District Judge